IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

WEDNESDAY, THE 28TH NOVEMBER 2007 / 7TH AGRAHAYANA 1929

Bail Appl..No. 7157 of 2007()

CRIME NUMBER NOT KNOWN - RAILWAY POLICE STATION, SHOURNOOR

: PETITIONER/ACCUSED:

P.J. JOSEPH, S/O. P.V.JOSEPH,
AGED 55 YEARS, PARAPPILLY, M.G.ROAD, COCHIN-35.

BY ADV. SRI.AVM.SALAHUDIN

RESPONDENTS: COMPLAINANT:

STATE OF KERALA,
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.JAI GEORGE

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 28/11/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J.

B.A.No.7157 of 2007

Dated this the 28th day of November 2007

O R D E R

Application for anticipatory bail. The petitioner, a jeweller, apprehends arrest on the allegation that he has received stolen gold ornament from the first accused.

2. The first accused is alleged to be a habitual thief. When he was arrested and interrogated, he allegedly stated that the thieved gold ornament was entrusted to the petitioner herein. He led the police to the shop of the petitioner wherefrom the stolen gold ornament was allegedly seized by the investigating officer . The petitioner has now been arrayed as an accused alleging commission of the offence punishable under Section 411 I.P.C.

3. The learned counsel for the petitioner submits that the petitioner is absolutely innocent. The first accused has not sold any article to the petitioner. The petitioner had refused to oblige the request of the police for producing the ornaments admitting the same to have been delivered to the petitioner by the first accused. Because of that animosity, false allegations under Section 411 I.P.C are being raised against the petitioner.

4. The learned counsel for the petitioner submits that, at any rate, recovery having already been effected and there being no allegation that the petitioner is a habitual receiver of stolen property, arrest and detention of the petitioner is absolutely unnecessary. The petitioner is willing to co-operate with the investigating officer. Subject to any appropriate conditions, the petitioner may be granted anticipatory bail, it is prayed.

5. The learned Public Prosecutor does not oppose the application and in the facts and circumstances of this case to which I have made brief reference already, I am satisfied that the petitioner can be granted anticipatory bail subject to appropriate terms and conditions.

6. In the result, this petition is allowed. Following directions are issued under Section 438 Cr.P.C in favour of the petitioner.

i) Petitioner shall surrender before the learned Magistrate having jurisdiction at 11 a.m on 05/12/2007. He shall be released on regular bail on condition that he executes a bond for Rs.50,000/-(Rupees fifty thousand only) with two solvent sureties each for the like sum to the satisfaction of the learned Magistrate.

ii) The petitioner shall make himself available for interrogation before the investigating officer between 10 a.m and 3 p.m on 06/12/2007 and 07/12/2007. During this period, the investigating officer shall be at liberty to interrogate the petitioner in custody and take all necessary steps for the proper investigation of this case and thereafter on all Mondays between 10 a.m and 12 noon for a period of one month and subsequently as and when directed by the investigating officer in writing to do so.

(iii) If the petitioner does not appear before the learned Magistrate as directed in clause (i), directions issued above shall thereafter stand revoked and the police shall be at liberty to arrest the petitioner and deal with him in accordance with law, as if these directions were not issued at all.

(iv) If he were arrested prior to 05/12 /2007, he shall be released from custody on his executing a bond for Rs.50,000/- (Rupees fifty thousand only) without any sureties, undertaking to appear before the learned Magistrate on 05/12/2007.

(R.BASANT, JUDGE)

jsr

R.BASANT, J.

CRL.M.CNo.

ORDER

21ST DAY OF MAY2007